

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0403

Financial Institutions Tax

Years Ended 12/31/90, 12/31/91, 12/31/92, 12/31/93, and 03/01/94

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Adjusted Gross Income – RAR Adjustments

Authority: IC 6-5.5-6-6

Taxpayer protests the inclusion of unfinalized RAR adjustments.

II. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated July 2, 1998 protested an add-back of four million dollars (\$4,000,000) which was not the final agreed upon amount between it and the IRS. The final agreed upon amount for this issue was one million eight hundred fifty-one thousand two hundred and seventeen dollars (\$1,851,217). Taxpayer has provided a signed copy of the Closing Agreement on the Final Determination Covering Specific Matters. The file was returned to the auditor for supplemental.

I. Adjusted Gross Income – RAR Adjustments

DISCUSSION

At issue is the taxpayer's final agreed upon RAR adjustments. Taxpayer has provided a Closing Agreement on Final Determination Covering Specific Matters from the Internal Revenue Service.

The Department has accepted the determination and has supplemented the audit for the amount at issue plus related interest.

FINDING

Taxpayer's protest is sustained.

II. Tax Administration – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in reporting and remitting Financial Institution Tax.

Taxpayer states it did not fail to file an Indiana Franchise Tax return or pay Indiana Franchise Tax timely. The assessments were not a result of negligence, intent to defraud, or failure to file. Based upon the above facts and its good faith efforts to file its returns accurately and remit the proper amount of tax, Taxpayer requests and abatement of penalties assessed.

Taxpayer's audit indicates it failed to accurately report income subject to tax, which includes foreign income exclusion, add-back of taxes, charitable contributions and interest. All issues are clear in the Indiana code and Regulations.

Taxpayer is a large and sophisticated bank holding company. The issues assessed in the audit are clear and the assessments represent approximately fifteen percent (15%) of the total tax due.

The Department finds that the taxpayer was negligent in its failure to include all items subject to tax.

FINDING

Taxpayer's protest is denied.

CONCLUSION

Taxpayer's protest is sustained for Issue I and denied for Issue II.